

CONSIDERATION OF (1) THE CARGILL DEFENDANTS' MOTION TO COMPEL COMPLETE RESPONSES TO DISCOVERY REQUESTS (DKT. NO. 1941) AND (2) THE CARGILL DEFENDANTS' MOTION TO STRIKE PLAINTIFFS' NATURAL RESOURCE DAMAGES REPORTS OR TO COMPEL COMPLETE EXPERT DISCLOSURES (DKT. NOS. 1938 & 1940)

As detailed in the integrated memorandum accompanying the Cargill Defendants' motion to compel, the Cargill Defendants' recent discovery requests and demand for supplementation ask Plaintiffs to identify the specific evidence on which Plaintiffs base their individual claims against Cargill, Inc. and CTP, including their claims (for example) that Cargill, Inc. and CTP

have violated specific state regulations, have caused runoff of poultry litter into the Illinois River, and are responsible for certain practices of growers with whom the Cargill Defendants contract. The Cargill Defendants' motion demonstrates that Plaintiffs have failed to provide the vast majority of the Cargill-specific information sought, either in their original responses, in their few supplementations, or in their responses to the Cargill Defendants' most recent discovery requests.

The Cargill Defendants' motion to compel thus raises the same issues concerning the sufficiency of Plaintiffs' production of Cargill-specific evidence that Plaintiffs have already brought before the Court for expedited consideration in their pending Motion for Protective Order. (Dkt. No. 1933: Pls.' Mot.; Dkt. No. 1937: Order granting expedited consideration.) Plaintiffs' motion asks the Court to prevent the Cargill Defendants from taking 30(b)(6) depositions addressing the factual bases for Plaintiffs' individual claims against the Cargill Defendants, arguing that the depositions are unnecessary because Plaintiffs have previously provided the requested Cargill-specific information through other means. The problem, of course, is that Plaintiffs have *not* in fact previously provided the requested information in any form, as the Cargill Defendants' Motion to Compel points out.

Because both Plaintiffs' motion for protective order and the Cargill Defendants' motion to compel address the same crucial issue—the Cargill Defendants' entitlement to discover the evidence supporting the individual claims against them—the Court should consider the two motions together. Only in that way can the Court accurately evaluate Plaintiffs' claim that they have already identified and provided Cargill-specific evidence and the Cargill Defendants' claim that Plaintiffs have not.

Despite the Cargill Defendants' consent to and the Court's Order granting expedited

consideration of Plaintiffs' motion for protective order, Plaintiffs have refused to consent to expedited consideration of the Cargill Defendants' closely related motion to compel.

2. The Cargill Defendants' Motion to Strike Plaintiffs' Natural Damages Reports or to Compel Complete Expert Disclosures (Dkt. Nos. 1938 & 1940).

The Cargill Defendants base this motion to strike on the failure of Plaintiffs' expert report from Stratus Consulting to identify which of its seven authors will testify as to which of the report's topics as required by Rule 26(a)(2). The Cargill Defendants ask the Court either to strike the report or, in the alternative, to direct Plaintiffs to provide individual expert disclosures for each of the seven authors. Because the Court's ruling on this motion will affect whether, when, and in what order Defendants depose these seven authors, and in light of the impending April 16 discovery deadline, the Cargill Defendants respectfully request that the Court grant expedited consideration of their motion.

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CERTIFICATE OF SERVICE

I certify that on the 30th day of March, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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